

January 4, 1993  
REPORT TO THE HONORABLE MAYOR AND CITY COUNCIL  
AMENDMENT TO RENTAL REGULATIONS OF SINGLE FAMILY  
HOMES--DOCKET OF  
JANUARY 12, 1993, ITEM NUMBER 333

On June 8, 1992 this Council adopted amendments to the One Family Dwelling Rental Regulations (OFDRR). During this public hearing we advised the Council of the recent decision of the 4th District Court of Appeals in *Briseno v. City of Santa Ana*, 6 Cal. App. 4th 1378 (1992). At that time the City of Santa Ana had not decided whether to petition the court for a rehearing and file an appeal with the California Supreme Court. The City of Santa Ana did not take further legal steps. Thus, the *Briseno* decision still stands as written.

*Briseno* essentially involved a local housing regulation that established more restrictive room dimensions for all types of rental housing. The 4th District Court of Appeals concluded that the State Housing Law's occupancy standards preempted the room dimensions established by Santa Ana.

Our zoning regulations (OFDRR) employ room dimensions as one of the criteria in determining the number of renters that can occupy rentals of single family dwelling. This amendment today would conform OFDRR with the room dimensions set forth in the State Housing Law.

On September 17, 1992 a group of property owners in the San Diego State University area filed a civil law suit challenging the validity of OFDRR. One of the grounds they have alleged in their law suit is based on an extension of the *Briseno* decision. They argue that *Briseno* preempts any and all local regulations that have any affect on the number of occupants in rental housing. We disagree with this broad interpretation. As of today, the plaintiffs in that law suit have not sought nor obtained an injunction which prevents the City from enforcing the terms of OFDRR.

Respectfully submitted,  
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